

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

STATE OF WASHINGTON,	)	
	)	No. 62892-5-I
Plaintiff,	)	
	)	DIVISION ONE
v.	)	
	)	UNPUBLISHED OPINION
WESLEY F. RIEDEL and LANA L.	)	
RIEDEL, husband and wife; and	)	
SKAGIT COUNTY,	)	
	)	
Respondents,	)	
	)	
RICHARD W. PIERSON,	)	
	)	FILED: March 15, 2010
Appellant.	)	

Grosse, J. — While representing Wesley and Lana Riedel at a mediation in a condemnation action, attorney Richard Pierson provided a statement of his costs and fees upon which the Riedels relied in the course of their litigation. Pierson later filed an attorney lien against the proceeds of the mediation claiming additional fees. Where, as here, the trial court orders an attorney lien removed based on equitable principles after a summary proceeding requested by both parties, chapter 60.40 RCW does not require findings of fact and conclusions of law as to the reasonableness of the fees claimed. Because Pierson fails to demonstrate any abuse of discretion in the trial court's decision to remove the lien, we affirm.

## FACTS

The Riedels hired attorney Richard Pierson to represent them in a condemnation action filed by the State of Washington against their property. At a mediation on October 24, 2007, the parties reached a settlement and the State agreed to pay for the Riedels' costs and attorney fees. The Riedels asked Pierson for a total of costs and fees to date. Apparently unprepared for this question, Pierson communicated with his office and then provided the Riedels with a faxed document listing the following:

Attorneys' Fees incurred August 2006 to date: \$23,414.00  
Richard W. Pierson

Costs incurred August 2006 to date: \$914.84  
Richard W. Pierson

R.W. Thorpe & Associates \$1,440.00

Robert Bonjorni & Associates \$18,900  
(Real Estate Appraisers – Consultants)

Total: \$44,668.00

The Riedels asked the State to pay \$45,000 in costs and fees and the State agreed. The Riedels regretted the deal and fired Pierson the next day.

On November 13, 2007, Pierson filed an attorney's lien for \$17,276.30 pursuant to RCW 60.40.010(1).<sup>1</sup> Based on the total fees and costs of

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<sup>1</sup> RCW 60.40.010(1) provides:

An attorney has a lien for his or her compensation, whether specially agreed upon or implied, as hereinafter provided:

(a) Upon the papers of the client, which have come into the attorney's possession in the course of his or her professional employment;

\$24,328.84 Pierson claimed he was owed on October 24, less their previous payments of \$17,880.54, the Riedels sent Pierson a check for \$6,448.30, stating it was payment in full. Pierson wrote to the Riedels stating he was “unclear as to the amounts contained in [their] letter and where [they were] obtaining that information,” and demanding an additional \$10,834.31 “for work performed and costs incurred between September 20, 2007 and October 31, 2007,” based on an invoice dated November 2, 2007.

The Riedels filed a motion to remove the lien, arguing that the services provided by Pierson were not worth the amount charged, that they had relied to their detriment on his quote of the total costs and fees and would not have settled with the State as to fees if they had known he would be charging more, and that Pierson had cashed the check as payment in full and filed a lien for twice the amount he claimed he was owed. The Riedels also stated that they had repeatedly requested that Pierson send them their file, but Pierson never sent it to them. In response, Pierson provided copies of the parties’ fee

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(b) Upon money in the attorney’s hands belonging to the client;

(c) Upon money in the hands of the adverse party in an action or proceeding, in which the attorney was employed, from the time of giving notice of the lien to that party;

(d) Upon an action, including one pursued by arbitration or mediation, and its proceeds after the commencement thereof to the extent of the value of any services performed by the attorney in the action, or if the services were rendered under a special agreement, for the sum due under such agreement; and

(e) Upon a judgment to the extent of the value of any services performed by the attorney in the action, or if the services were rendered under a special agreement, for the sum due under such agreement, from the time of filing notice of such lien or claim with the clerk of the court in which such judgment is entered, which notice must be filed with the papers in the action in which such judgment was rendered, and an entry made in the execution docket, showing name of claimant, amount claimed and date of filing notice.

agreement and billing records and urged the trial court to enforce the lien in a summary proceeding and direct the court clerk to pay him \$11,881.52 from the \$45,000 that the State had deposited with the court pursuant to the parties' settlement of fees and costs.<sup>2</sup>

After a hearing, the trial court signed an order in which it found, "That at mediation the Riedels relied on Mr. Pierson's representation as to the value of the services he provided, and settled the case based on that representation, at least in part," and ordered the lien removed, not to be refiled.

Pierson appeals.

#### ANALYSIS

We review a trial court's decisions fashioning equitable remedies in a proceeding to enforce a lien for abuse of discretion.<sup>3</sup>

Without citation to authority, Pierson claims that the trial court abused its discretion by considering the Riedels' reliance on Pierson's statement of their account on October 24 in violation of RCW 60.40.010(4), providing, "The lien created by subsection (1)(d) of this section is not affected by settlement between the parties to the action until the lien of the attorney for fees based thereon is satisfied in full." Pierson also contends that the only discretion the trial court had was to enter findings fact and conclusions of law regarding the reasonableness of the fees claimed.

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<sup>2</sup> By the time of the December 19, 2008 hearing regarding enforcement of the mediation agreement and the lien, the State had withdrawn the money from the court registry.

<sup>3</sup> Sorenson v. Pyeatt, 158 Wn.2d 523, 531, 146 P.3d 1172 (2006).

Pierson provides no authority for his claim that a trial court may not consider the equitable principle of reliance in an equitable proceeding to enforce a lien.<sup>4</sup> Moreover, nothing in the record indicates that the trial court determined that the Riedels' settlement with the State in any way affected the lien. Rather, the findings indicate that the trial court determined that Pierson's written statement of accounts as of the day of the mediation, also the last day of his representation of the Riedels, as well as the Riedels' reliance on that statement when taking steps in their litigation with the State, had an effect on the propriety of the lien under the circumstances. Pierson fails to demonstrate any abuse of discretion in the trial court's equitable considerations.

Pierson also fails to establish that chapter 60.40 RCW limited the trial court's discretion here to the entry of findings of fact and conclusions of law as to the reasonableness of the amount claimed. Nothing in the statute requires particular findings or conclusions as to any issue. The Riedels asked the court to summarily remove the lien and Pierson asked the court to summarily enforce the lien. The trial court heard argument and considered the evidence submitted by the parties. Pierson does not contend that the hearing was inadequate. The procedure followed here complies with the statutory requirements and due process.<sup>5</sup> We find no abuse of discretion in the trial court's rejection of Pierson's

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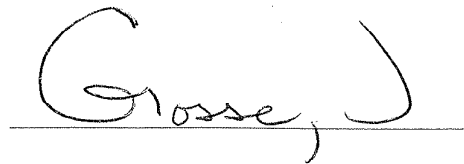
<sup>4</sup> See, e.g., Kim v. Dean, 133 Wn. App. 338, 345, 135 P.3d 978 (2006) (equitable claim of promissory estoppel based on reliance element that courts use to prevent injustice).

<sup>5</sup> RCW 60.40.010; see Krein v. Nordstrom, 80 Wn. App. 306, 310, 170 P.3d 53 (1995); accord, King County v. Seawest Inv. Assocs., LLC, 141 Wn. App. 304, 315-16, 170 P.3d 53 (2007).

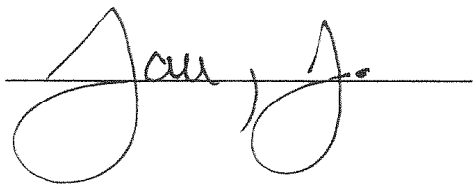
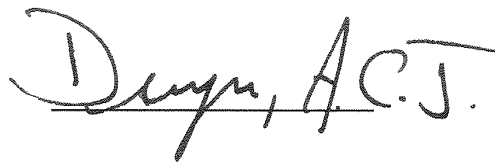
arguments and removal of the lien.

The Riedels claim they are entitled to attorney fees under their fee agreement with Pierson. A party may recover attorney fees when authorized by a private agreement, statute, or recognized ground of equity.<sup>6</sup> Pierson's engagement letter with the Riedels states, "In the event that there is a breach of this Agreement, the prevailing party shall be entitled to recover from all actual attorneys' fees and costs of collection and suit incurred." Because our review is limited to the trial court's decision regarding removal of a lien rather than a breach of the parties' agreement, any award of attorney fees will abide the result of any such dispute.

Affirmed.

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WE CONCUR:

A handwritten signature in cursive script, appearing to read "Jan, J.", written over a horizontal line.A handwritten signature in cursive script, appearing to read "Dwyer, A.C.J.", written over a horizontal line.

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<sup>6</sup> Mellor v. Chamberlin, 100 Wn.2d 643, 649, 673 P.2d 610 (1983).